

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
NORTHERN DIVISION

ADRIAN CEDRIC KING, # 312674,

Petitioner,

Case No. 14-cv-14861

v.

Honorable Thomas L. Ludington

ROBERT NAPEL,

Respondent.

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**OPINION AND ORDER TRANSFERRING CASE TO THE UNITED STATES COURT  
OF APPEALS FOR THE SIXTH CIRCUIT**

Petitioner Adrian Cedric King, a Michigan state prisoner, has filed a pro se petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254. For the reasons set forth below, this is a successive habeas corpus petition and, therefore, it will be transferred to the United States Court of Appeals for the Sixth Circuit, pursuant to 28 U.S.C. § 1631<sup>1</sup> and 28 U.S.C. § 2244(b)(3)(A).

King challenges his 2005 convictions for assault with intent to commit murder, Mich. Comp. Laws § 750.83, being a felon in possession of a firearm, Mich. Comp. Laws § 750.224f, discharging a firearm toward a building, Mich. Comp. Laws § 750.234b, and possession of a firearm during the commission of a felony, Mich. Comp. Laws § 750.227b. In 2007, King filed a habeas corpus petition in this Court challenging the same convictions challenged in this current petition. The petition was denied on the merits. *See* January 18, 2011 Opinion and Order Denying Petition for Writ of Habeas Corpus, *King v. Capello*, 07-cv-15134, ECF No. 21.

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<sup>1</sup> 28 U.S.C. § 1631 provides, in relevant part:

Whenever a civil action is filed in a court . . . and that court finds that there is a want of jurisdiction, the court shall, if it is in the interest of justice, transfer such action or appeal to any other such court in which the action or appeal could have been brought at the time it was filed or noticed . . .

Before a prisoner may file a habeas petition challenging a conviction already challenged in a prior habeas petition, the prisoner must “move in the appropriate court of appeals for an order authorizing the district court to consider the application.” 28 U.S.C. § 2244(b)(3)(A). Petitioner’s prior habeas petition was dismissed on the merits. Petitioner has not obtained from the Court of Appeals for the Sixth Circuit authorization to file a successive petition in this court. The Sixth Circuit has held that when a second or successive petition for habeas corpus relief is filed in the district court without prior authorization, the district court must transfer the petition to the Court of Appeals pursuant to 28 U.S.C. § 1631. *In re Sims*, 111 F.3d 45, 47 (6th Cir. 1997).

Accordingly, it is **ORDERED** that the Clerk of Court **TRANSFER** this case, 14-cv-14861, to the United States Court of Appeals for the Sixth Circuit.

Dated: January 21, 2015

s/Thomas L. Ludington  
THOMAS L. LUDINGTON  
United States District Judge

PROOF OF SERVICE

The undersigned certifies that a copy of the foregoing order was served upon Adrian King #312674 at Marquette Branch Prison, 1960 U.S. Hwy 41 South, Marquette, MI 49855 by first class U.S. mail on January 21, 2015.

s/Tracy A. Jacobs  
TRACY A. JACOBS